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The Case of George McIntosh

BY THE EDITOR

Among the prominent families in Georgia that of McIntosh holds a record equal, probably, to any in historical importance and interest. At its head we place, without fear of contradiction, the name of General Lachlan McIntosh, whose service to his country in the time of its struggle for independence should never be forgotten, and whose career has never been as highly appreciated as it deserves. We regret that no adequate biography of him has ever been written. His reputation has suffered more than the circumstances justified in the matter of his duel with Button Gwinnett, by reason of the power exerted by the Gwinnett party immediately following the death of their leader. Great injustice to him was also caused by the letter attributed to William Glascock in the latter part of the year 1779, and that matter has never been explained so as to show the character of General McIntosh in its proper light.

The subject matter of this article was the occasion of great joy to General McIntosh's mortal enemy, Button Gwinnett, who made much of a matter which would not otherwise have attained the notoriety it received. Gwinnett, at that time, was President of the Georgia Council, and, in the language of Chas. C. Jones (*History of Georgia*, vol. II pp. 279, 280) "gladly availed himself of the opportunity thus afforded to mortify General Lachlan McIntosh and vent his wrath against him upon his brother."

We have to go to original documents for information concerning George McIntosh, as his name does not frequently occur in any of the histories recording events transpiring during the period in which he lived. It is true that he is mentioned here and there; but references to him are so brief that the general reader does not reach the conclusion that he deserves more consideration than any ordinary man.

George McIntosh was a man of education, and his knowledge secured for him positions of honor and profit. He must have been well fitted for the work of surveying, as, in the

year 1766 he was appointed by the General Assembly a commissioner to lay out a road of importance in the southeast portion of the Province; was, in 1768, made the official surveyor for the Parish of Saint Andrew; was, by the tax act of 1770, granted the sum of ten pounds for surveying a place known as "Butter Milk Bluff;" but, more important still, he was, in the last mentioned year, assigned by the Legislature as the special agent to lay out the town of Brunswick. In this connection it is interesting to have the words of DeBrahm who, on page 32 of the Wormsloe edition of his "History of the Province of Georgia," in a foot note, records the fact that "In 1771 a Town was laid out on the said Spot, and called Brounswig, many are the Petitioners who have applied to the Governor in Council for Properties in this new Town—from its Situation extremely promising."

In 1764 George McIntosh was a member of the Commons House of Assembly, and in the month of December he was granted leave of absence "during pleasure," but in October, 1765, he was, by resolution, required to appear in his seat. Whether he was absent all that time we do not know. He was a representative in the same Assembly, from Saint Andrew's Parish both in 1768 and 1772.

When the first Provincial Congress of Georgia, appointed to take into consideration matters of the greatest moment leading to the final separation of the Colonies from Great Britain, met on the 4th of July, 1775, in Savannah, George McIntosh was present as a representative from Saint Andrew's Parish. Archibald Bulloch was the President and George Walton was the Secretary of that Congress. He was a member of the Council of Safety and was present May 14th, 15th, 16th, 17th, June 8th, 11th, 18th, 19th, 20th, 21st, Sept. 20th, Oct. 2d, 7th, 10th, 18th, 21st, 22d, and Nov. 23d and 25th, 1776.

On the 22d of November, 1777, while Archibald Bulloch, President of Council, was absent and matters concerning the settlement of estates, at that time within the jurisdiction of that body, coming up for action, George McIntosh was one of eight members who signed a paper consenting to the reference of those matters to the President, then confined to his

home by sickness, which was probably his last attack, as he died during the month of February following. The consent was in the words: "We, the subscribers, being----- of the Council, and members of the said Court, have no objections to the same being done before his Excellency the President at his chambers (in consequence of his indisposition and inability to attend the Court) in case his Excellency shall think proper so to do."

The story of the troubles of George McIntosh begins with the dispute between Governor John Adam Treutlen and William Henry Drayton, of South Carolina. In the year 1777, as is well known, a proposition was made to unite the States of South Carolina and Georgia, and Drayton was appointed one of the commissioners on the part of the former to make the proposition to Georgia. At that time Treutlen was the Governor of Georgia, having been elected over Button Gwinnett by a large majority. Feeling in Georgia ran high, in consequence of the proposed union, resulting in the proclamation of Treutlen, offering a reward of one hundred pounds for the capture of Drayton and others, who were charged with endeavoring to poison the minds of the good people of this State against the Government thereof." To that proclamation Drayton made an angry reply in which he took occasion to charge Treutlen with being unjust towards George McIntosh, "who," he said, "I consider as an abused gentleman, arbitrarily ordered into a distant State, to be tried by those who have no jurisdiction in such a case, and far out of the reach of a jury of his vicinage—circumstances of tyranny and total disregard to the most valuable rights of the people," &c. The charge of injustice against George McIntosh grew out of a circumstance which will now be related.

On the 8th day of January, 1777, McIntosh was arrested by order of the President of the Council of Safety, and lodged in jail on a charge made in an intercepted letter of Governor Tonyn, of East Florida, to Lord George Germain. This action grew out of an affidavit filed with the Council of Safety Nov. 23d, 1776, by Edward Davies, charging "that about the 25th day of October last, he was at St. Augustine, and that Mr,

(Roger) Kelsall told him that the brig *Beaufort*, now lying in Ogeechee River, was expected daily at Mr. (William) Panton's address. As the said brig belonged to the deponent and partners, he applied to Mr. Panton to know on what account she was to come away. Mr. Panton answered she was licensed by Governor Tonyn for St. Augustine, and requested of the deponent to know where he would receive said vessel, she being on monthly wages, but in case of capture a valuation was to be paid in a sum unknown to the deponent." The Council then instructed General Lachlan McIntosh to "take into his possession the sails belonging to the brig *Beaufort*, and prevent the said brig from proceeding on her voyage till further orders from this Board." It appears that Panton had stored at Sunbury a large quantity of goods, and had obtained permission of the Council of Safety to exchange them for rice, provided he would give bond with security that the goods would not be discharged in any district over which England had jurisdiction.

In the intercepted letter of Governor Tonyn the writer said, among other things, that Panton "had been greatly assisted by Mr. George McIntosh who is compelled to a tacit acquiescence with the distempered times," and "I am informed that his principles are a loyal attachment to the king and constitution. He would, my lord, be in a dangerous situation was this known."

Sir James Wright, who had been arrested in his home by the "Liberty Boys" under the leadership of John Habersham, made his escape and went to Halifax, and afterwards wrote a letter to Lord George Germain, on the 8th of October, 1777, quoting passages from a letter "from Mr. Wm. Brown, late acting Comptroller and Searcher at the Port of Savannah, in Georgia, a person whose veracity is unquestionable," these words: "Lachlan McIntosh (the Rebel General in Georgia), is in confinement for killing Gwinnett—George McIntosh (a great Rebel) being informed there was an intention to send him to the Northward to be tried for selling Provisions for the use of the Garrison at St. Augustine, has absconded, and a Party of Soldiers are living at free Quarters on his Planta-

tion———. The Carolinians taking the advantage of the disputes in Georgia, the Death of Gwinnett, and the disgrace of the McIntoshes, who all violently opposed the former Attempt to unite Georgia to Carolina, mean to revive the matter, and to send General Moultrie to enforce it, if they can't otherwise accomplish it."

In the year 1793 a suit in equity was brought against General Lachlan McIntosh and others by John McIntosh, son of George, to compel the former to render a true account of matters pertaining to the administration of George McIntosh's estate. To the bill in equity General McIntosh filed a lengthy reply which is herewith given mainly for the facts of history contained in it:

STATE OF GEORGIA:—

On the Equity side of the Superior Court.

John McIntosh, Complainant, by his next friends—

William and Lachlan, the elder, Esquires—

The answer of Lachlan McIntosh, one of the defendants to the Bill of the Complainant.

This defendant being required by the Bill of the Complainant to discover facts relative to the estate of the intestate George McIntosh, the Complainant's father, long before he had taken any part in the administration of it, and being willing in order to do every possible justice, and render every satisfaction in his power to the Complainant, to go into a narrative of the transactions of the estate as far as he can recollect, prior to his taking part in the administration of it; at the same time saving and reserving to himself now and at all times hereafter all and all manner of benefit of advantage of exception to the many insufficiencies, uncertainties and other imperfections and defects in the Complainant's Bill contained, for answer thereto or to so much thereof as this defendant thinks is any ways material or necessary to answer, he answereth and saith: That after the peace of Aix La Chapelle the latter end of the year one thousand seven hundred and forty eight, every resource this then young Colony, now State of Georgia, had for its support being withdrawn, it became almost entirely

depopulated; that among other emigrants this defendant left his parents and went to Charleston, South Carolina, where he carried his youngest brother, the late George McIntosh, the father of the Complainant, who was at that time about eleven years of age, put him to a grammar school at this defendant's own expense, and after the said George had acquired such other accomplishments as were then taught at that place, this defendant bound the said George for four years to an Architect and allowed him one hundred pounds Carolina currency a year during the term of his the said George's apprenticeship for pocket money, purchased a negro boy for him to be brought up to the same business with himself, and to attend upon him, who is still alive, as this defendant believes, and the most valuable slave belonging to the Complainant being the chief manager of his estate: This defendant further answering saith that after the term of the said George's apprenticeship expired, this defendant brought him back to Georgia and got him appointed commissary of supplies for the Troops in garrison at Frederica, and other ports dependent thereon, instructed him in geometry and surveying and furnished him with books for those purposes, in order that the said George might by those means acquire a more perfect knowledge of his own Country and have an opportunity of getting the most valuable lands at that early period for himself, as this defendant advised and directed him. And as the inclination of the said George soon after his return from Charleston led him to planting, this defendant was also his security in Charleston for the first parcel of Negroes the said George ever purchased, with which and his own industry he acquired all the property he every possessed. Of all these advantages he made the best use and became one of the most thriving planters in this State, uniformly ascribing all his successes to this defendant's steady friendships to him, and always declaring and looking upon this defendant in the light of a father and tried friend, rather than a brother; And this defendant further answering admits it to be true that the late George McIntosh, brother to this defendant and father of the Complainant, did depart this life at or about the time mentioned in the Complainant's

Bill of complaint, and that the said George died intestate and without a Will, to the best of this defendant's knowledge and belief; And this defendant admits it to be true that the Complainant is the only child of the said George McIntosh now living, and that the said George was at the time of his death possessed of a considerable real estate in Lands amounting to the best of this defendant's knowledge to thirteen thousand and eighty acres consisting of forty five tracts situated in the different Counties of Liberty Glynn and Camden in this State, and also of a Lot of Land in Savannah. The Grants and Titles to which said Lands and Lot were on the third day of July in the year one thousand seven hundred and ninety two delivered to the Complainant, by this defendant as by his receipt appears. And this defendant further answering admits it to be true that the said George at the time of his death was possessed of a considerable personal estate, consisting of negroes, and other things, but denies that there ever came to this defendant's hand and possession any more or other of the personal estate of the Intestate than the Negroes mentioned in the Inventory herewith exhibited and appraised at three thousand seven hundred and sixty two pounds on the ninth and eleventh of August one thousand seven hundred and eighty four, and on the seventeenth day of January one thousand seven hundred and eighty-six, and seventeen pieces of silver consisting of spoons and other old plate which was neglected to be put in the appraisement and is kept as a memorial for the Complainant of his Parents whom he can hardly remember: And this defendant further answering saith that he was at Augusta when he first heard of the death of the Intestate, that he immediately came down, but did not arrive until some days after his funeral, that the short time this defendant stayed at the habitation of the Intestate, he principally inquired and examined into his papers, which were scattered about and huddled into unlocked broken trunks, but found none of any consequence except the Grant and Titles for the land before mentioned, which were all put carefully into a small portmanteau trunk and secured by the defendant's wife and family, in a pursuit by the enemy of seven or eight hundred miles, while he this defendant was a

prisoner in Charleston, being captured at the siege of that City, in the year of our Lord one thousand seven hundred and eighty: And this defendant further answering saith that about the time he came down from Augusta after his brother's death he engaged a Waggoner to carry to Charleston to the care of McPhilip Minis, since deceased, a parcel of Indigo belonging to the Intestate which Indigo he never saw nor does he know the quantity but sent it there that it might be secured out of the reach of the enemy and has since been informed and believes it was afterwards delivered to the order of Sir George Houstoun; all the personal estate besides of every description was in the hurry of the retreat from the common enemy left in the care of the overseer on the Intestate's plantation at Sapelo river. And this defendant further answering denies that he did immediately after the death of the said George apply for the administration of his estate to the Superior Court of this County, but admits it to be true that sometime in the year one thousand seven hundred and eighty three, after the evacuation of Savannah by the British forces at the solicitation of the late Sir Patrick and the present Sir George Houstoun, he this defendant agreed to join them together with James Houstoun in the administration of the estate of the Intestate George, provided they would give this defendant no trouble in the administration of it, in pursuance of which solicitation an assent of this defendant's application was made and letters of Administration this defendant believes were granted to them; accordingly, on or about the thirtieth day of October one thousand seven hundred and eighty three, but this defendant denies that he ever qualified or acted under those letters. And this defendant further answering admits that true it is that some time after the said Letters were granted, if granted at all, to wit about the tenth day of December in the year last aforesaid William McIntosh, the elder, a brother of this defendant and a co-defendant to the Bill of the Complainant petitioned the Chief Justice of this State praying for a revocation of the letters granted to the said Sir Patrick, George and James Houstoun and this defendant, and that the administration of the estate and effects of the said Intestate might be granted to him

the said William as eldest brother of the Intestate, and to such others as by law or open consent might be entitled to the same, that the Chief Justice on considering the said petition granted the prayer thereof, and thereupon adjudged, that the administration of the Estate & effects of the said Intestate of right belonged to the said William, the petitioner, whereupon he the said William without the knowledge or consent of this defendant had his, this defendant's, name joined with the said William's in the Judge's order for the Letters, but this defendant having shortly before that period returned to this State after an absence of near five years, on being exchanged for General O'Hara, his family then in Virginia and his affairs much deranged by the War which required all his attention, in his advanced stage of life, refused to qualify or have anything to do with the said estate for a considerable time, however on seeing the estate of his said brother George much neglected and wasted, and being impressed with the necessity of his joining the said William in the Administration of it in order to save it as far as possible for the Complainant, the only child and representative of the Intestate, this defendant did on the twenty fourth day of May one thousand seven hundred and eighty four qualify with the other defendant to this Bill and take upon himself jointly with him the administration of the said estate. And this defendant further answering denies that he has acted as an administrator ever since the letters were granted, because this defendant says that he never got possession of the Negroes of the said estate till about the first day of January one thousand seven hundred and eighty five. And this defendant further answering saith, that his only motive in joining in the administration was to protect the estate from waste and ruin, himself under the most embarrassing circumstances, incredibly poor after a long and necessary absence from his country, plundered of almost everything he possessed and not a farthing of money belonging to the estate on hand or any present means of making any, all the movable effects belonging to the estate having been sold together with twenty-two of the best negroes by the late administrators Sir Patrick and George Houstoun under the usurpation—nothing to pur-

chase tools, clothes, provisions, or any other necessary for settling the Negroes without selling some of them, neither could credit be obtained, even if the means of settling them had been in the power of this defendant, the whole Country around was harassed by a banditti accustomed to plunder and rob, inso-much that there really was no safety for any movable property twenty miles distant from Savannah, and in addition to all this an Indian War shortly after broke out which nearly depopulated the whole Country south of Chatham County, under all those circumstances which this defendant believes would have terrified almost any other person than this defendant and the other from undertaking so arduous a task, they notwithstanding determined, old and inactive as they were, to persevere although no other means in their power were left than to hire out the Negroes to the highest bidder from year to year, which was also attended with many inconveniences and much trouble and risk, as the state about that period abounded with paper emissions of various kinds which served as a medium for cash in dealings amongst the Citizens, these circumstances coupled with the tediousness of legal proceedings induced people to give exorbitant prices for every article offered for sale notwithstanding which this and his co-defendant under all these embarrassments had no alternative left but to make the trial, not supposing the Claimant whom they had so essentially served would endeavor to take advantage of any little inadvertencies or irregularities which they might have fallen into under such circumstances, and in such times. And this defendant further answering saith that some time after he qualified as an Administrator John Houstoun Esquire an uncle of the Complainant instituted an Action against this defendant and the said William his brother as Administrators of the Intestate in the name of Miss Ann Stewart and recovered an account of three hundred and twenty two pounds seventeen shillings and three pence with interest thereon, and that the present Sir George Houstoun, another uncle to the Complainant, after engaging Samuel Stirk, William Stephens, and John Houstoun Esquires had three writs served on these defendants on the same day as administrators of the said estate

for about two thousand pounds sterling with interest charged on that sum to the day of bringing the Actions, which nearly doubled the original debt and at that time in this defendant's opinion would have swallowed up the whole estate if sold for cash, at length after much expence which this defendant at that time could but illy afford and frequent attendance on Court the fate of these Actions was by order of Court left to arbitration and instead of allowing the said Sir George the sums of money he demanded it was awarded that he should pay the defendants seventy eight pounds eight shillings and nine pence and return a young Negro fellow the said Sir George detained and since sold for one hundred pounds, as this defendant believes and also pay them three hundred and seventeen pounds three shillings and five pence with interest from the first day of January one thousand seven hundred and eighty one as surviving administrator of the said George McIntosh under the British usurpation, and that the said Sir George should also use the utmost of his endeavors to recover ninety two pounds sterling due by his brother-in-law George Kincade for negro hire during the said British administration of the estate which this defendant believes to be still due as by the award will appear. And this defendant further answering admits it to be true that he together with his co-defendant did on the twenty third day of December one thousand seven hundred and eighty four, at Great Ogeechee where the negroes of the said Intestate's estate then were in possession of William McIntosh the younger, son of this defendant, to whom they had been hired for that year by Sir Patrick and George Houstoun, set up and exposed to sale in pursuance of public notice given all the taskable hands of the Intestate consisting of twenty eight in number, from the first of January one thousand seven hundred and eighty-five till the first of January one thousand seven hundred and eighty six, as by the said notice will appear, when to this defendant's surprise they were knocked off at the enormous rate of twenty pounds for each taskable hand to this defendant's son William, which he this defendant much disapproved of as the said William was a near relation of the Complainant and had given so extravagant a price for the negroes.

that he could never expect to pay their hire by their labor, but the said William persisted in his purchase; and this defendant further answering admits that the same negroes that were hired to the said William for the year one thousand seven hundred and eighty five after being duly advertised in the *Gazette* of the twenty third day of December of that year to be disposed of for the year one thousand seven hundred and eighty six at Savannah, the conditions of which were that the purchaser should give bond and warranty of Attorney to confess judgment thereon within twelve months for the hire of the Negroes that year, as by a copy of the advertisement will appear which this defendant thought might probably prevent his said son William from getting them a second year were knocked off at the enormous price of nineteen pounds twelve shilling and six pence for each taskable hand to Richard Leake, who immediately signed the conditions of sale in the name and on behalf of the said William McIntosh who was not present at the sale, this circumstance so much displeased this defendant that he hardly spoke to the said William his son for several years. The auctioneer after the sale according to the conditions thereof had the negroes appraised made out the Bond and warrant of attorney and presented them to the said William but could not prevail on him to execute them, who still had the negroes in possession; thus the Auctioneer was put off from day to day as this defendant was informed and believes, by the purchaser until that year was too far spent to advertise and sell them over again; and this defendant further answering saith that he repeatedly pressed the said William his son for a fulfilment of his agreement for the year one thousand seven hundred and eighty five which he never fully completed as well as for the payment of his bond for the hire of the Negroes for the year one thousand seven hundred and eighty four, and that he the said William frequently promised to discharge the greatest part if not the whole of the hire for the year one thousand seven hundred and eighty four and one thousand seven hundred and eighty five, when his crop should be beaten out, which he said was delayed in order to get his

land in order provided he was not sued for the same, otherwise he would keep the estate out of the money three four or five years if possible.

This defendant thus awkwardly and delicately situated by the imprudence and obstinacy of his said son William was determined to act against him with more decision than against any other person in a like situation, and accordingly having received no rice or other payment agreeably to promise from his son William he put the bond for the year one thousand seven hundred and eighty four and agreement for the year one thousand seven hundred and eighty five into the hands of James Jackson, Esquire, Attorney at Law, on the twenty sixth day of August one thousand seven hundred and eighty six to be immediately sued, Mr. Jackson was then the defendant's only counsel in all the transactions of the estate and advised this defendant to defer bringing the suits against the said William till the circulation of the paper medium ceased, as there were persons watching this defendant's conduct who would not hesitate saying that he sued his son William in order to favor him and to afford a pretence of paying the debt in paper money which was much depreciated and continued to be a legal tender till the guardians of the Complainant received the whole of the property of the Intestate and the sole direction of it out of the hands of this and the other defendant. This defendant further answering saith that in order to avoid the evils and inconveniences of the years one thousand seven hundred and eighty five and one thousand seven hundred and eighty six and finding that nothing could be made out of the negroes by hiring them, he with the other defendants to the Bill ventured for the year one thousand seven hundred and eighty seven to place them on the plantation of the Intestate situate on the Sapelo river, although the Indians were still troublesome but without tools, seed rice, necessities of any kind or money of their own or of the estate's in this unavoidable dilemma they were obliged to send two of the negroes to Savannah to be sold, but as no more than twenty five pounds was offered for each they were brought back again and a wench called Polly who was the wife of a fellow

belonging to Lachlan McIntosh the younger was purchased by him for fifty six pounds to be paid in corn, rough rice and seed potatoes which necessity obliged the defendants to accept without having time to advertise her according to law, whereby the rest of the Negroes were relieved, otherwise they must have been sent adrift for a subsistence and all prospects of a crop given up, the necessary delay occasioned by these circumstances with the bad order of the land laying waste for many years, without the necessary buildings and other accommodations required on a rice plantation reduced this year's crop to eighty barrels of rice with necessary provisions. And this defendant further answering admits that in the beginning of the year one thousand seven hundred and eighty eight there was a fine prospect of a crop but that early in that year the Indians began to kill and plunder slaves and other property all around the neighborhood of the plantation, which necessarily obliged the defendants to be at the expence of keeping a guard of white men constantly over the negroes rather than lose so promising a crop, and for the further security of the slaves which was still a greater object with the defendants than the crop itself they purchased a large Pettiagua boat to carry off all the negroes at once to the Island in case of any dangerous alarm which so frequently happened, that the crop this year netted only forty eight barrels which barely paid the heavy expence attending the culture of it. And this Defendant further answering saith that the year one thousand seven hundred and eighty nine was attended with nearly the same expence and trouble with the Indians, yet the crop netted ninety eight barrels of rice and plenty of provisions, seed rice and seed potatoes, as by the account hereto annexed and exhibited to the honorable Court will very clearly and regularly appear, all of which were in the beginning of the year one thousand seven hundred and ninety delivered to the Complainant's Guardians together with all the slaves mentioned in the inventory, except a Wench Polly sold for provisions as before is mentioned and a fellow called Billy who after being advertised according to Law was sold to Patrick Crookshanks for fifty seven pounds, who gave his note payable in ---- days

from the date thereof, which was put in Suit and Judgment obtained thereon which this defendant says is now of force; the reason for selling this Negro were because he was an idle fellow and a runaway and has since as this defendant has been informed and believes shot in the woods. And this defendant further answering saith that the debts due and demands in favor of and against the estate of the Intestate as far as they have come within his knowledge will appear by the accounts hereto annexed and exhibited to this honorable Court and which he prays, together with the other accounts attached to them, may be considered as part of his answer to the Complainant's Bill. And this defendant denies all and all manner of combination and confederacy wherewith he stands charged in and by the said Bill of Complaint. Without that, that there is any other matter or thing material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true. All which matters and things this defendant is ready to aver and prove, as this Honorable Court shall direct and award, and hereby prays to be hence dismissed with his reasonable cost and charges in this behalf most wrongfully sustained—.

Matt. McAllister, Solicitor
for Def't L. McI.

10th Sept. 1793—

Lachn. McIntosh.

Sworn to this 11th Sept.

1793, before J. Hustoun.